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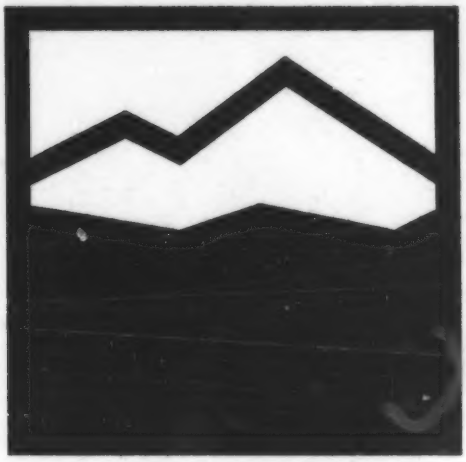


Protecting Our Yukon Environment

Discussion Towards Development of a YUKON ENVIRONMENT ACT

August, 1990

Minister's Message

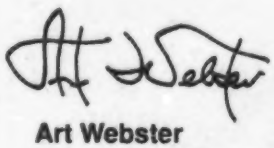
Throughout the world today, nations are battling major environmental problems. Yukoners are relatively fortunate in this regard, as much of the territory remains unscathed. But we can't take this for granted. Irresponsible actions can quickly destroy the Yukon... one of the Earth's last true wilderness regions.

That is why we developed the Yukon Conservation Strategy; a comprehensive plan to preserve the environment and encourage sustainable development. The preparation of a Yukon *Environment Act* to replace the existing patchwork of territorial and federal legislation is our next step. What we need are some rules designed specifically for the Yukon. Since other Canadian jurisdictions already have environmental legislation, we can study the strengths and weaknesses of their laws to determine how they might apply to the Yukon.

This discussion paper is the starting point for public consultation on the new legislation. What kind of laws should the Yukon have to ensure environmental protection? This is an issue that affects every Yukon resident. Public meetings will be held in September, and I encourage everyone to participate in the process.

I want to know what you think about protecting our environment. You can let me know by responding to the questions in this discussion paper, either by writing to the Environmental Protection Coordinator or by attending the public meetings. Planning together, we can ensure that the Yukon remains environmentally clean and safe for future generations.

Sincerely,



Art Webster
Minister of Renewable Resources

92-03169/

A Statement of Environmental Responsibility

When the Yukon Conservation Strategy was released in May 1990 it included the following statement of environmental responsibility and ethics.

The Yukon government pledges to:

- *Educate Yukoners and their children to help them understand the value of our land and resources and to recognize the fundamental relationship between a healthy environment and cultural, community, social, economic, and individual health and well-being. This includes explaining that we are individually responsible, in our everyday lives, for protecting the environment.*

- *Provide all Yukoners with the opportunity to be involved in, and contribute to, all decisions about our land and resources.*

- *Recognize and respect the international significance of the Yukon's environment. This means cooperating with our neighbours on the management of shared resources at the local, national and international level.*

- *Reflect the principles of sustainable development and sound environment management in all government projects, policies and programs.*

- *Ensure Yukon government employees understand their individual responsibility for protecting the environment when carrying out their duties.*

- *Assess the positive and negative effects of all resource development activities. The negative effects of development, whether social or environmental, will be minimized.*

- *Consider all environmental attributes in the government's decision-making and regulatory processes. In particular, this means recognizing the important value of wildlife in supporting the food, recreational and cultural needs of Yukoners. And it means respecting the Yukon wilderness as a resource in its own right that has both economic and non-economic values.*

- *Protect essential ecosystems and ecosystem processes and ensure that water, trees, wildlife and other resources are available for all time.*

- *Protect the biological and genetic diversity of all Yukon plant and animal species.*

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SETTING THE GROUND RULES TOGETHER

During the *Yukon 2000* public discussions, Yukoners, whether or not they made their living from the land, agreed that it was important "to safeguard the Yukon's natural environment..."

The Yukon Conservation Strategy, released earlier this year, outlined specific government steps to lead us to that goal. This discussion paper on environmental protection and the consultation process which will follow are designed to give you an opportunity to help draft the Yukon's first comprehensive *Environment Act.* It is time to establish legal standards to control or restrict the discharge of polluting substances before they affect our air, land and water.

Fortunately there is no need to start developing our *Environment Act* and regulations from scratch. Since each province and the Northwest Territories has some form of environmental legislation, we can examine their experiences for ideas on what might work here.

This paper provides examples of laws from the western provinces and the Northwest Territories for most of the subject areas to be covered by the Yukon *Environment Act.*

It also looks at existing federal and territorial laws that apply to the Yukon. Acts such as the federal *Northern Inland Waters Act*, the Yukon *Public Health Act* and, most recently, the *Canadian Environmental Protection Act (CEPA)*, passed in 1988. CEPA is now the federal standard for comprehensive environmental protection.

We believe that the Yukon *Environment Act* should be a comprehensive piece of legislation, pulling together all of the assorted "bits and pieces" of other relevant legislation. It should also fill in the gaps that exist today. Finally, it should be recognized by the Canadian government as at least equivalent to the *Canadian Environmental Protection Act.*

The Yukon government currently has little legal authority, and no regulated standards for controlling or restricting pollutants. The need for an act to protect our environment is obvious. That is why the Yukon Conservation Strategy identified it as a top environmental priority for the 90's. And that is why your views are needed now to help us guarantee a healthy, sustainable future.

ADDRESSING A LARGER PERSPECTIVE

When thinking about environmental legislation we must consider the ongoing devolution of federal programs as well our role in global environmental problems and solutions.

In the years ahead, as the Yukon assumes greater control from the federal government over renewable and non-renewable resources, laws will be needed to protect those resources. The Yukon *Environment Act* will help us do that.

In addition, the Act will provide the Yukon with the legislated authority to play its part in addressing issues that are national or worldwide in scope. We will be able to take local steps to deal with global concerns such as destruction of the ozone layer, global warming and environmental contaminants.

Already, the Yukon is helping to develop remedial action on such issues as acid rain, toxic chemicals, hazardous wastes, dioxins, furans and recycling. This is being done through our participation in technical committees of the Canadian Council of Environment Ministers (CCME). The Yukon is also cooperating with the federal government and seven other Arctic countries in the development of a Circumpolar Environmental Strategy. The Yukon *Environment Act* will reinforce our commitment to these issues and provide the legislated authority to act on them.

GUIDING PRINCIPLES

Four main principles will guide the development of the Yukon *Environment Act* (YEA).

Comprehensiveness
The Act will cover all areas of environmental protection.

Singularity
The Act will establish one unified environmental protection system with integrated standards of protection.

Simplicity
The Act will provide for regulations that are straightforward and fair.

Cooperation
The Act will be developed and managed on a cooperative basis with the public, industry and government.

SCOPE

We believe that the Yukon Environment Act should include, at the very least, the following subject areas:

* *Development Assessment,*
* *Air Pollution,*
* *Water Pollution,*
* *Solid Waste Management,*
* *Special Waste Treatment, Storage, Handling and Disposal,*
* *Recycling,*
* *Pesticides,*
* *Environmental Emergencies,*
* *Litter Control,*
* *Noise Control,*
* *Enforcement and Penalties,*
* *Environmental Bill of Rights, and*
* *State of the Environment Reporting*

EQUIVALENCY

The development of a YEA will include negotiations to obtain equivalency with federal legislation such as:

* *Canadian Environmental Protection Act,*
* *Northern Inland Waters Act, and*
* *Arctic Waters Pollution Prevention Act.*

Equivalency agreements with the federal government will allow us to apply the Yukon *Environment Act* in place of CEPA. These agreements are necessary for an effective Yukon - based environmental protection program.

PRIORITIES

Our intention is to first develop and pass the *Environment Act* and then prepare the detailed regulations needed for day to day management.

Regulations will be developed for each area of protection, but we cannot develop them all at the same time. We have to set priorities. In the case of pesticides, this consultation process will be used to refine regulations which have already been proposed.

Q ***Question***

For which areas of protection should regulations be developed first?

A ***Answer***

Q ***Question***

Should regulations be drafted in plain English (everyday language) so that they educate at the same time they set out legal standards?

A ***Answer***

REVIEWING THE IMPACTS OF DEVELOPMENT

In the future, as in the past, Yukoners will be faced with large-scale resource development and infrastructure projects. A number of new mines are now in various stages of development. There are proposals for pipeline projects and development in the Beaufort Sea, and the Kotaneelee gasfield and processing plant in the south-east Yukon is being re-activated. The future may also bring large-scale government highway projects such as reconstruction of the Alaska Highway north of Haines Junction.

Before projects of this nature proceed, it is important to have a clear picture of both their costs and their benefits. That is why a development assessment process is an important tool for environmental protection. A development assessment process would evaluate the environmental, socio-economic and cultural impacts of proposed development projects.

The Yukon First Nations and the governments of Canada and the Yukon have negotiated the outline of a Yukon Development Assessment process which is detailed in the comprehensive Land Claim Umbrella Final Agreement. The agreement commits governments to complete development assessment legislation within two years of ratification.

The process will cover all development projects in the Yukon, with different levels of review for different sizes or types of projects. Projects without significant social or environmental effects will not require detailed reviews. Minor projects will be reviewed and approved locally.

Larger or more significant projects such as major mines, new highways or oil and gas projects will be considered by environmental review panels formed from members of a Development Assessment Board. Half the board seats will be filled by First Nation nominees. Representation on panels will vary depending on whether the project might impact settlement lands, non-settlement lands, both or other jurisdictions.

The public will be able to participate in project reviews conducted by the Development Assessment Board.

The Yukon Development Assessment process will be designed to be compatible

with the *Canada Environmental Assessment Act* which was recently introduced to Parliament.

The Yukon Development Assessment process, whether legislated as part of the Yukon *Environment Act* or as part of a *Land Claims Settlement Act*, will be the primary method for assessing the impacts of proposed Yukon developments.

In cases where the Government of Canada insists on a review by a federal environmental assessment panel instead of the Yukon Development Assessment Board, the Umbrella Final Agreement guarantees that one-quarter of the panel members will be chosen from a list of Yukon First Nations nominees and one-quarter from a list of Yukon government nominees.

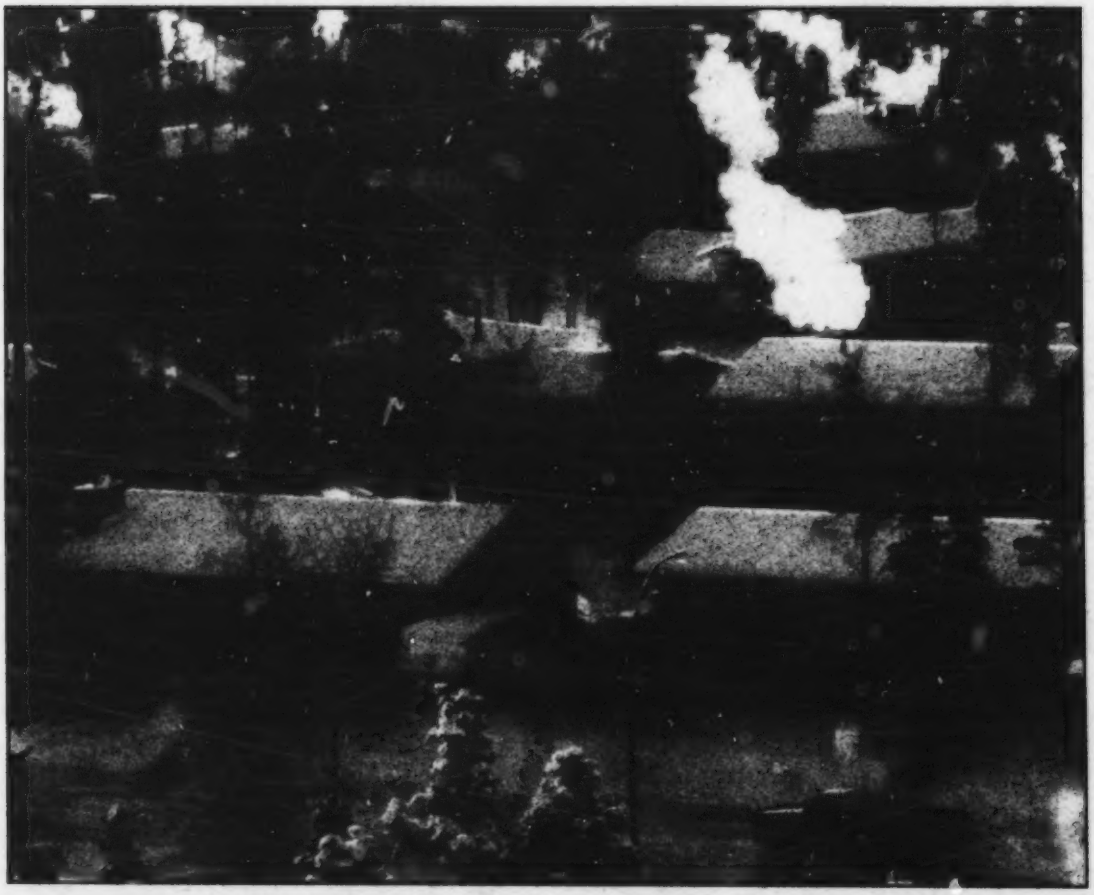
AIR POLLUTION

Definition

An air contaminant is any solid, liquid or gas which is added to the atmosphere by direct or indirect human activity. Air pollution is the presence in the atmosphere of any contaminant in excess of specified regulated limits.

Present Legislation

The City of Whitehorse has a wood smoke bylaw and an air pollution prevention section in the maintenance bylaw. There is no general legislation to regulate air quality in the Yukon.



Yukon Concerns

Although the Yukon is not industrialized by southern Canadian standards, people have complained about air pollution from asphalt plants, sawdust burning, idling

vehicles, residential wood smoke, burning plastic at scrap yards, burning at municipal dumps and unconditioned waste oil burning.

Examples Of Existing Legislation Elsewhere

Alberta

Under the Alberta *Clean Air Act* the Minister can regulate:

- *maximum permissible concentration of any air contaminant,*
- *rate of air emissions,*
- *maximum visible emissions,*
- *maximum ground level emissions, and*
- *methods for measuring and detecting emissions.*

The *Clean Air Act* requires certain industrial plants such as petroleum refineries, incinerators, and thermal electric generating facilities to obtain a permit that sets the maximum allowable emissions for a particular area. When emissions exceed the permitted levels, the Director of Pollution Control may issue orders to limit the discharge of air contaminants.

Saskatchewan

Saskatchewan's *Air Pollution Act* and regulations provide for permits to control air emissions from:

- *fuel burning equipment and incinerators,*
- *open fires, and*
- *internal combustion engines.*

Permits can include terms and conditions to control emissions. The Minister can also specify testing procedures and order investigations into air pollution problems.

British Columbia

Air contaminants are included under the B.C. *Waste Management Act.* The required permits can:

- *specify terms and conditions for the release of air emissions,*
- *direct the permit holder to alter, repair or remove the equipment causing the emission, or*
- *direct the permit holder to conduct studies and report on the findings. In addition, the* Waste Management Act *allows for the control of air contaminants in the Greater Vancouver area by providing for bylaws to prohibit, regulate and control the discharge of such contaminants. The Act also provides for delegation of authority to the municipality.*

Northwest Territories

Air quality is covered by the Northwest Territories *Environmental Protection Act* which contains specific regulations to control emissions from asphalt plants. Standards have been set to limit the amount of waste particles in the air and to preserve visibility.

Q ***Question***

Should we draft detailed regulations for all sources of air contaminants or should some sources be exempt?

A ***Answer***

Q ***Question***

Should community air pollution problems be regulated by municipalities or should they be included under the new YEA?

A ***Answer***

Q ***Question***

Should operations which are licensed to emit some level of contaminants pay according to the volume of contaminants emitted?

A ***Answer***

Q ***Question***

Do you have any other ideas on how to prevent or regulate air pollution?

A ***Answer***

WATER POLLUTION

Definition

Water pollution is the presence in water of any substance which impairs its quality or renders it less suitable for its intended use, or which presents a hazard to human health or the environment. Examples of pollutants include bacteria, inorganic salts, nutrients such as phosphates, oily materials, toxic agents ranging from metal salts to complex synthetic chemicals, waste heat and silt.

Present Legislation

Water quality in the Yukon is managed under the federal *Northern Inland Waters Act*. Water licences are issued by the federally appointed Yukon Territory Water Board to municipal, industrial and other water users. The licenses, which can set discharge limits for certain wastes, are monitored by the Water Resources Division of the federal Northern Affairs Program.

Yukon Concerns

Until the responsibility for water resources is transferred to the Yukon government, most areas of water protection will continue to be enforced by the federal government. However, concerns about sewage treatment and protection of groundwater should be addressed by Yukon legislation.

Although the *Northern Inland Waters Act* regulates the discharge of sewage, there are growing public demands for better treatment before these wastes are discharged

into our rivers and lakes. In the short term, stricter guidelines should be developed in cooperation with the Water Board and the municipalities. In the longer term, regulated standards should be put into place and enforced.

The *Northern Inland Waters Act* provides some protection against groundwater pollution but is difficult to enforce. The Yukon's environmental legislation should aim to control the discharge of contaminants to the ground surface before groundwater is affected. Once contaminants reach the water table, cleanup becomes both difficult and expensive.

The Yukon government would like to see all aspects of water pollution covered under one piece of legislation. Discussions and negotiations with the federal government will be aimed at achieving this goal.

Examples Of Existing Legislation Elsewhere

Manitoba

Water resources are protected under the Manitoba *Environment Act* and the *Public Health Act*. Both pieces of legislation are valid but it is the *Environment Act*, passed in 1987, which is used most often today.

The Act provides for licensing of activities or developments which result in effluent discharges. Discharge limits can be set for individual development projects and monitoring inspections are conducted to ensure compliance.

The Protection of Water Sources Regulations under the *Public Health Act* have been used to protect streams, lakes, and rivers. It is unlawful under this Act to discharge wastes of any kind into water bodies including groundwater sources. Sewage, industrial waste and mine waste can be regulated under this Act. Sanitation Regulations also exist for the development of water and sewer systems but all new projects affecting water are now dealt with under the more comprehensive *Environment Act*.

Alberta

In Alberta, the *Clean Water Act* and regulations protect surface and subsurface water resources. Licences are necessary for the construction and operation of sewage and water treatment plants and industrial facilities. Contaminants are classified and discharge limits are set. When discharge levels are exceeded, or where there is a potential for this to happen, the Director of Pollution Control may issue orders to limit or stop the discharge. Regulations under the *Clean Water Act* provide for the management of water related to:

- *industrial plants,*
- *municipal plants,*
- *fertilizer plants,*

- *fluoridation regulation,*
- *gas plants,*
- *industrial land fills, and*
- *petroleum refineries.*

Q ***Question***

How should water quality be managed in the future -- by the federal government, by the territorial government, or jointly?

A ***Answer***

Q ***Question***

Would you like to see stronger regulations on discharges into water? If so, in what areas?

A ***Answer***

Q ***Question***

Should operations discharging contaminated water pay a fee based on the volume of legal discharges allowed by their licences?

A ***Answer***

SOLID WASTE

Definition

Solid waste means any discarded material with the exception of liquids. For our purposes the term will refer to garbage disposed of in private or public dumps or landfills.

Present Legislation

The Yukon has no legislation covering solid waste disposal. Regulations under the proposed YEA could focus on standards for new disposal sites and the proper management of both new and existing sites.

Yukon Concerns

The development of new landfills requires careful planning to ensure that groundwater contamination does not occur and that future development and existing land uses in the area are not adversely affected. Proper landfill management is also important. To safeguard public health, wastes must be compacted and buried properly. Burning wastes at landfills is no longer acceptable because it can pose serious air quality problems.

When a landfill reaches its capacity it must be restored, as near as possible, to a natural state. Once the site is reclaimed, it should be monitored to ensure that contaminants are not migrating into the water table.

Examples Of Existing Legislation Elsewhere

In other jurisdictions, solid waste disposal is regulated by laws designed to protect the environment and ensure that public health is maintained.

Manitoba

The Manitoba *Environment Act* includes Waste Disposal Ground Regulations. These regulations prescribe licencing requirements for three classes of disposal sites based on the size of population they serve. Detailed plans and other information necessary to assess the impacts of this kind of development are required under the legislation.

Once the site is in operation, the licence can prescribe terms such as:

- *who may enter the site,*
- *methods for disposing of dead livestock,*
- *monitoring and gas venting,*
- *site location and access roads,*
- *operators' duties (for private, municipal or provincial disposal sites),*
- *open burning (prohibited unless specified in the licence), and*
- *other operational requirements specific to the type of site (eg. industrial or municipal) or to the type of waste being deposited.*

Alberta

The Waste Management Regulations of the Alberta *Public Health Act* affect all types of waste including:

- *agricultural waste - dead animals, manure, etc.,*
- *biological waste - hospital wastes,*
- *dry wastes - non-offensive wastes,*
- *hazardous wastes - (Regulated under the* Hazardous Waste Act, *these wastes must be approved before disposal.), and*
- *waste material - refuse garbage and other substances.*

The regulations address, through permits, the location, access and operation of waste disposal facilities according to the size of population and the type of waste. The frequency of compaction and burial is also specified.

Applications to develop a site must include maps, design data, detailed site development plans and information on zoning, buffer areas and haul routes. Regulations cover all types of facilities including sanitary landfills, transfer stations and storage structures.

Q ***Question***

Should Yukon regulations be similar to those of Manitoba and Alberta? Are there unique local problems which must be addressed?

A ***Answer***

Q ***Question***

Should landfill sites require a tipping charge -- a fee based on the volume of waste deposited?

A ***Answer***

ADVISORY COMMITTEE ON WASTE MANAGEMENT

The Advisory Committee on Waste Management, appointed by the Minister of Community and Transportation Services, is developing a comprehensive waste management program for the Yukon. Public meetings, discussion papers and brochures generated by the committee are informing Yukoners of the issues and of the government's objectives for a comprehensive plan to manage our wastes.

The Committee will also be helping the Department of Renewable Resources to prepare the waste management sections of the new Yukon *Environment Act*.

SPECIAL WASTES

Definition

Special wastes are substances that require special treatment, storage and handling before disposal or discharge. They may be toxic, corrosive, reactive or flammable. They may also persist in the environment and accumulate to levels which can harm plants, animals and humans. Waste oil, paints, solvents and other cleaning compounds are examples of special wastes.

Present Legislation

The *Canadian Environmental Protection Act* and the *Transportation of Dangerous Goods Act* list a wide variety of substances which must be controlled through their life cycle. The life cycle includes development, manufacture, storage, transportation, use and disposal. The *Canadian Environmental Protection Act* now has limited application in the Yukon because it only schedules very toxic substances.

Yukon Concerns

In the discussion paper, *Planning for Special Waste Management*, the Yukon Advisory Committee on Waste Management stated that, "generally, special wastes in the Yukon are disposed of either in our sewers or at our local dumpsites. The Yukon's sewage systems and landfills were never intended to deal with these special wastes and we are now realizing that neither of these disposal methods effectively dispose of special wastes."

Recent tire fires in Ontario and Quebec illustrate how the improper handling of seemingly harmless wastes can result in the release of airborne pollutants and toxic liquids.

The Yukon's special waste problems are not nearly as severe as those in the south but there is no room for complacency. The waste oil problem at the Whitehorse dump, the Marwell Tar Pit, and the PCB soil contamination at the Granger Subdivision are legacies of poor waste management in the past.

The adage "an ounce of prevention is worth a pound of cure" is especially applicable to special waste management in the Yukon. By learning from the experiences of other jurisdictions we can prevent problems before we are overwhelmed by them.

Regulations under the proposed Yukon *Environment Act* should be designed to identify hazardous substances and prescribe the methods for safe handling, storage and disposal.

To ensure access to federal funding, Yukon regulations will be modelled on the *Canadian Environmental Protection Act* but will be designed to allow the Yukon to deal with special wastes not yet scheduled under CEPA.

Examples Of Existing Legislation Elsewhere

Manitoba

Because of its comprehensive design, the Manitoba *Environment Act* allows for regulation of any development which produces a pollutant. "Pollutant" under this act means anything which can adversely affect the natural, physical, chemical or biological quality of the environment or be injurious to plant, animal or human safety and health. "Waste" is also broadly defined and includes solid, liquid and gaseous discharges as well as run-offs of domestic, municipal, mining or industrial origin. Special wastes are well covered under these definitions.

Regulations and licensing procedures have been developed to cover the storage and handling of gasoline and associated products, incinerators, pulp and paper mills, smelters and waste disposal grounds.

Specific terms and conditions provide for the safe operation and management of hazardous waste facilities as well. Under the *Dangerous Goods Handling and Transportation Act* these facilities require a licence. They are subject to inspection, testing and monitoring by inspectors of the Department of Environment and the Department of Workplace Safety and Health.

British Columbia

The *Waste Management Act* is British Columbia's primary legislation for managing wastes. Under this Act, "special wastes" are broadly defined as any dangerous goods that are no longer used for their original purpose. The definition and schedule of dangerous goods from the federal *Transportation of Dangerous Goods Act* can be used to identify materials considered as dangerous or special waste.

Permits are issued for the operation of facilities or vehicles for the collection, storage, treatment, handling, transportation, discharge, destruction or other disposal of waste. Under the Special Waste Regulations, site location standards and operational requirements are specified.

- *Plans must be approved prior to construction of a special waste facility.*
- *All hazards concerning the special waste must be known to the facility operator before the waste can be accepted, handled, stored, treated or disposed of.*
- *Records must be kept of all special waste entering the facility.*

Q ***Question***

Should we adopt Manitoba's broad definitions of "pollutants" and "wastes"?

A ***Answer***

Q ***Question***

Should we include provisions to ban the use of substances or technology which may produce special wastes if there is significant public concern?

A ***Answer***

RECYCLING

Definition

Recycling is one of the four R's of modern waste management (reduction, reuse, recycling, and recovery). As landfill sites overflow and resources dwindle, it becomes increasingly important to reduce waste and to convert as much of it as possible into useable material. A successful recycling program can achieve these goals and improve our management of renewable and non-renewable resources. For example, the recycling of aluminum and paper products results in tremendous savings of raw materials and energy.

Present Legislation

There is no legislation in the Yukon which requires or encourages recycling. However, containers for wine, beer and spirits are subject to a deposit/refund. Starting in August 1990, a non-refundable 10 cent recycling fee will be applied to all wine and spirit containers at the time of purchase to assist with the recycling of all glass containers in the Yukon.

Yukon Concerns

Recycling programs in the Yukon face two main problems. One is a small population and the other is the long distances between our communities and the reprocessing facilities. This means our transportation costs are higher while at the same time our volume of material is low. A third problem facing all recycling programs is the low commodity prices for recyclable material at the present time.

Despite these problems, Yukoners are extremely interested in recycling. Important voluntary efforts are being directed at finding ways to expand our recycling programs.

The Department of Renewable Resources is currently funding two recycling projects under the Yukon Conservation Strategy Demonstration Project fund: a community composting facility and an aluminum recycling program. In addition, a pilot project to recycle paper within government departments is now underway.

Examples Of Existing Legislation Elsewhere

Most jurisdictions in Canada have legislation requiring deposits and refunds on beverage containers. The trend is toward an expansion of this type of legislation to include such things as tires, batteries, etc. Quebec and British Columbia are taking this expanded approach and both provinces have established environmental funds which are financed through the disposal tax levies.

Ontario

Ontario is recycling on a very large scale, using a "Blue Box" system. This program now serves 2 million households and the goal for 1994 is to serve 2.7 million (75% of Ontario households). Paper, glass, tin and aluminum are some of the products now being collected. Plastics were a problem for a long time but it is now technically possible to recycle plastic products as well.

British Columbia

British Columbia has also introduced a "Blue Box" program to serve the larger communities in the lower mainland. In addition, the province has introduced a disposal levy of three dollars on each new tire sold and five dollars on lead-acid batteries. A hazardous products levy will be introduced in July 1990. The tax exemption on disposable diapers has also been removed to encourage the use of alternative products.

Q ***Question***

Do you support the expansion of the recycling programs to cover products such as paper, plastic, glass and motor oil?

A ***Answer***

Q ***Question***

Are you willing to pay recycling deposits or levies on batteries, tires, oil and all beverage containers?

A ***Answer***

Q ***Question***

Should "tipping charges" or fees per volume of waste deposited be used to encourage waste reduction and recycling?

A ***Answer***

Q ***Question***

Should retailers or wholesaler be required to offer products in recyclable packaging? Should they pay fees to government if non-recyclable packaging is used?

A ***Answer***

Q ***Question***

Do you have any other ideas on how to encourage recycling?

A ***Answer***

PESTICIDES

Definition

The Yukon's *Pesticide Control Act* defines a pesticide as any product, device, organism, or substance intended, sold or represented for use in destroying or repelling any insect, nematode, rodent, predatory animal, bacterium, fungus, weed, or other form of vegetation, animal life or virus, except bacteria or fungi living in humans or animals. The definition includes any product, device, organism, substance or thing required to be registered under the *Pest Control Products Act* of Canada.

The chemical compounds in pesticides can be toxic to humans and must be handled, stored and used safely. Unused pesticides and their containers are often considered special wastes.

Yukon Concerns

The quantities and types of pesticides applied in the Yukon are minuscule compared to those used in the provinces. The Mosquito Control Program (Yukon government) is the single largest local user. Unknown amounts of pesticides are also used by 30 to 40 agricultural producers and by numerous households.

Present Legislation

The Yukon *Pesticide Control Act* was passed in December 1989 but was not proclaimed pending the outcome of the review process. The present Act provides for the appointment of inspectors who can enter properties to take samples of pesticides, examine records and conduct investigations relating to misuse. Inspectors can order a violator to correct a situation and can obtain a court order if necessary.

Licences are required by persons wishing to apply:

- *pesticides from aircraft,*
- *pesticides to open bodies of water,*
- *pesticides for hire, or*
- *a restricted pesticide.*

Penalties for violating the Act or its regulations are significant: up to $15,000 per day and/or up to six months in jail for a first offence.

In March 1990, draft Pesticide Regulations were distributed for public review. An often-repeated comment was that the licencing requirements were not broad enough. In particular, the licencing of vendors was suggested. Many respondents also felt that the regulations should provide more detailed standards for the storage and handling of pesticides and leave less discretion in the hands of those who issue licences.

For the sake of singularity and comprehensiveness, it is proposed that Yukon's *Environment Act* incorporate the *Pesticide Control Act*. This would ensure consistency in legislation, monitoring and enforcement. For instance, the Pesticide Regulations could be tied in with the eventual Special Waste Regulations.

Q ***Question***

Some people believe that the small quantities of pesticides used in the Yukon do not justify detailed regulations. Others believe that Yukon regulations should be as detailed and as stringent as those in the rest of Canada. What do you think?

A ***Answer***

Q ***Question***

Should regulations state plain English guidelines for the application of pesticides?

A ***Answer***

ENVIRONMENTAL EMERGENCIES

Definition

An environmental emergency could result from spills of petroleum products or chemicals, or from fires involving chemicals or materials which produce toxic fumes. The PCB fire at Ste Basile le Grande and the more recent tire fire at Hagersville are examples of environmental emergencies.

The best way to limit the damage and risks involved in such emergencies is to have contingency response plans in place beforehand and to report the accident immediately.

Present Legislation

The requirement for spill contingency planning and reporting is covered in many pieces of federal, provincial and territorial legislation. For instance, the *Canadian Environmental Protection Act* requires that spills of toxic substances be reported.

Yukon Concerns

The *Transportation of Dangerous Goods Acts* (federal and territorial) require spill contingency planning and reporting for chemicals in transit. But spills involving stored chemicals are not covered. For example, there is no requirement for reporting a chlorine leak from a water treatment plant even though this type of incident could pose a serious threat to human health and safety.

Contingency planning for off-highway spills of petroleum products is also neglected.

Permits issued under the Territorial Land Use Regulations (federal) may require spill contingency plans but this requirement applies only to federal Crown land. Commissioner's Lands and quartz and placer mining claims are not covered.

It is proposed that the Yukon *Environment Act* require the reporting of spills and the preparation of contingency plans for response and clean-up. This would apply to any material that, if released, could pose a threat to health, safety or the environment.

Examples Of Existing Legislation Elsewhere

Manitoba

The reporting of contaminant spills is required under the Manitoba Dangerous *Goods Handling and Transportation Act*. The person who has control of a contaminant, or who is responsible for a spill, must report the accident to the Manitoba Department of the Environment and Workplace Safety and Health or to the local police or fire department. A schedule attached to the regulations details the

spill volumes and substances which must be reported. These include infectious, toxic, corrosive, flammable and compressed gas substances.

The Storage And Handling Of Gasoline And Associated Products Regulation under the Manitoba *Environment Act* has similar reporting requirements for spills involving petroleum products from vehicles, pipelines and storage tanks. The person in control must take steps to abate the discharge, clear the affected area and restore the environment to the satisfaction of the environment officer. This regulation also applies to underground storage tanks where regular leak detection tests must be conducted and repairs made as necessary.

Alberta

The Hazardous Waste Regulations under the Alberta *Hazardous Chemicals Act* require reporting of spills and contingency measures to respond to spills of hazardous waste. These measures include the provision of suitable equipment and trained personnel.

British Columbia

The British Columbia *Waste Management Act* provides for contingency planning and reporting of any polluting substance that could, if it were to escape, substantially impair the usefulness of land, water or air. The responsibility for measures to control or prevent spills rests with the person who has possession or control of the polluting substance.

Q ***Question***

Should our regulations include lists such as those in Manitoba which detail reportable spill volumes and substances?

A ***Answer***

LITTER CONTROL

Definition

Litter is any rubbish, refuse, debris or waste that is in a solid or liquid form; any paper, package, container, bottle or can, and the whole or part of any vehicle, equipment or machinery.

Present Legislation

Sections of the *Yukon Highways Act* prohibit littering along highways while Public Health Regulations prohibit unsightly premises. However, since there is no general law against littering, there is nothing to prevent littering in wilderness and off-road areas.

Yukon Concerns

Littering is a recognized problem in the Yukon. Every spring when the snow melts this fact is again brought to light. And the problem is not limited to our communities and roadways. The banks of the Yukon River itself are strewn, in many places, with refuse left behind by local and visiting river travellers. Other popular rivers and wilderness areas have also been affected.

Examples Of Existing Legislation Elsewhere

Manitoba

Manitoba has a Litter Regulation under its *Environment Act* which prohibits any person from "depositing, leaving or causing" litter upon any land, water or ice not designated for that purpose. Unsightly premises resulting from litter are also prohibited under this regulation. Fast food restaurant owners are responsible for keeping their property and all other property within 100 yards free from litter. Automobile owners are responsible for not allowing litter to be thrown or to escape from their vehicles. No person is allowed to abandon a shopping cart in a public place.

Alberta

Alberta has a *Litter Control Act* and regulations which prohibit littering on public land, highways, municipal lands, private lands and in water or on ice.

British Columbia

British Columbia has a *Litter Act* and regulations which prohibit discharging, dumping, discarding or disposing of litter on any land, ice or fresh water. Under this Act, it is unlawful to discharge domestic sewage or waste from a trailer, camper or boat onto land, ice or fresh water. Camps require conventional toilets and septic systems or pit toilets which must be buried on abandonment.

Q ***Question***

How much detail should we put into our litter control regulations?
(see examples from Manitoba, Alberta and B.C.)

A ***Answer***

Q ***Question***

Is the definition of litter which appears at the beginning of this section adequate?

A ***Answer***

NOISE CONTROL

Definition

Noise is sound that is not wanted by the recipient. Obviously, what may be a pleasant and enjoyable sound to one person may be offensive to another. Beauty, in this case, is in the ear of the listener.

Present Legislation

In most jurisdictions noise is covered by municipal bylaws. In the Yukon, however, it is covered by the *Noise Prevention Act*. The Act applies mainly to domestic noises from private land or premises.

Yukon Concerns

The types of noises which have resulted in complaints include:

- *aircraft,*
- *truck transport,*
- *road maintenance/snow removal,*
- *construction/demolition,*
- *sporting events, and*
- *entertainment.*

Examples Of Existing Legislation Elsewhere

Manitoba

The definition of pollution in Manitoba's *Environment Act* includes sounds and vibrations. As a result, a project developer in that province could have noise restrictions stipulated in the issued licence.

Q ***Questions***

Have you had any problems with noise where you live or where you go for recreation?

A ***Answer***

Q ***Question***

Is noise an appropriate subject for regulation under the Yukon Environment Act? *If so, what types of noises should be covered?*

A ***Answer***

THE "TEETH" OF ENVIRONMENTAL LEGISLATION

Although the major purpose of an Environment Act is to establish clear and publicly acceptable standards for environmental behaviour, care must be taken to ensure that these standards are enforceable.

Enforcement and penalty provisions are the "teeth" of environmental legislation. The Yukon *Environment Act* will include such provisions. But how tough should they be and how should they be enforced?

Yukon Concerns

Although the Yukon is not highly industrialized, a range of private sector, government and individual activities have the potential to affect our environment. Whether potential polluters are mining operations, dry cleaning stores, municipal sewage plants or people changing the oil in their pick-ups, all should follow established guidelines for safe environmental practices. If they don't, it should be possible to use enforcement and penalty provisions to bring them into line.

Examples Of Existing Legislation Elsewhere

Federal

The *Canadian Environmental Protection Act* provides for a range of measures to ensure compliance. These include:

- *communication of information on the law and any changes,*
- *consultation with the parties concerned or affected by the law, and*
- *technical assistance and technology development.*

CEPA also provides for the following enforcement measures:

- *inspection and monitoring,*
- *investigations,*
- *measures to compel compliance without resorting to formal court action, such as directions by inspectors, ticketing, and Ministerial Orders, and*
- *measures to compel compliance through court action such as injunctions, prosecution, court orders upon conviction and civil suit for recovery of costs associated with clean-up or damages.*

This range of options allows for flexibility on the part of the inspectors and officials administering CEPA. However, some might say that it leaves too much discretionary power in the hands of regulatory officials.

The Act also provides for severe fines and imprisonment for serious offences. Court penalties which can be prescribed are as follows:

* *On summary conviction, up to $200,000 for each day the offence is committed or up to six months in jail for contravening any section of the act.*
* *For fraudulent or misleading statements to the Minister, under specified sections of CEPA, fines of up to $300,000 or up to six months in jail or both. For convictions on indictment, fines of up to one million dollars may be levied, or imprisonment for up to five years or both.*
* *Persons committing offences causing bodily harm or risk of death, or who cause an environmental disaster resulting from intentional or reckless acts, are guilty of an indictable offence and are liable to a fine or imprisonment for up to five years.*

In addition, CEPA provides for liability being assessed against directors of corporations.

Manitoba

The Manitoba *Environment Act* provides for the following responses to a violation:

- *warnings,*
- *negotiated compliance,*
- *ticketing (similar to speeding tickets and fines),*
- *court action,*
- *penalties and court orders upon conviction,*
- *emergency orders by the Environment Officer or Director, and*
- *recovery of costs by the Environment Department through civil suit.*

Individuals can receive penalties ranging up to $5,000 or a maximum of six months in jail or both for a first offence. A second offence can result in a fine up to $10,000 or as much as one year in jail or both. In addition, a judge may cancel the environmental licences or permits under which the individual operates.

Corporations can receive maximum penalties on first conviction of up to $100,000 and for each subsequent offence up to $200,000. In addition, the judge may cancel any or all environmental operating licences issued to the corporation.

Directors of corporations may be convicted and are liable to the penalties provided for individuals.

Penalties under the Manitoba *Environment Act* can be prescribed for each day an offence is committed.

Northwest Territories

The Northwest Territories *Environmental Protection Act* presently allows for:

- *warnings,*
- *inspector's clean-up orders, stop orders and prevention orders,*
- *chief officer orders regarding clean-up or other measures, and*
- *court action.*

Fines presently range between $500 to $1,000 and may be prescribed for each day an offence is committed. Proposed amendments to the Act call for fines of $200,000 to $1,000,000 per day.

The New Yukon Legislation

The Yukon *Environment Act* will draw on the enforcement components contained in CEPA, Manitoba's *Environment Act*, and the Northwest Territories' *Environmental Protection Act*. The Act will be drafted to achieve equivalency with CEPA so the Yukon will be able to manage its own environmental program and will have access to federal environmental program funds. This is consistent with the efforts being made in other jurisdictions. Some, like Ontario, will have to amend a multitude of statutes to achieve equivalency. In the Yukon, we can ensure that equivalency agreements are achieved as we develop our legislation and regulations.

The enforcement and compliance measures available under CEPA, Manitoba's *Environment Act* and in the Northwest Territories allow for a range of enforcement

actions starting with out-of-court remedies such as warnings and tickets and progressing towards prosecution where heavier penalties are available for serious offences.

The Yukon law should apply to individuals, corporations, corporate officers and governments. This would ensure consistency and fairness to all.

The penalty provisions of our legislation should be in keeping with national standards and with other jurisdictions. Stiff penalties and the "polluter pays principle" are necessary deterrents in the prevention of environmental problems. Cleaning up contaminated sites is an expensive business with costs reaching into the millions of dollars.

Q ***Question***

If we were to adopt the stiff penalties of CEPA or Manitoba's Environment Act, *would we be going too far? Should we go farther?*

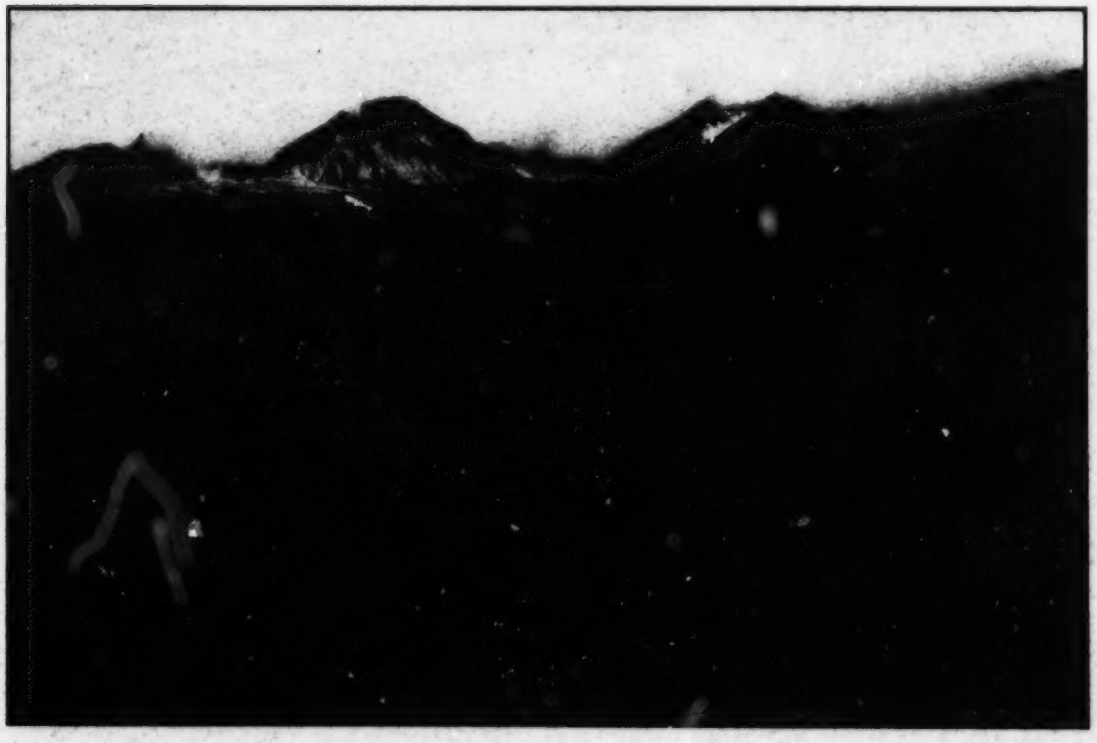
A ***Answer***

PROVIDING FOR CITIZEN ACTION

The *Canadian Environmental Protection Act* incorporates a number of provisions which are included in separate environmental bills of rights introduced in Ontario and the Northwest Territories.

An environmental bill of rights should also be built into the Yukon *Environment Act.* Our bill of rights could include provisions for:

- *any person to initiate court action against any illegal polluter,*
- *any two persons to request an environmental investigation into suspected contaminant discharges,*
- *public access to any information held by the Yukon government regarding the release of contaminants to the environment,*
- *confidentiality for any person reporting a spill or release of a contaminant or a suspected offense under the* Environment Act, *and*
- *protection for informants by making it unlawful for employers to harass, discipline or dismiss employees who report contraventions of the* Environment Act *or refuse to commit actions that contravene the Act.*



Q ***Question***

Is an environmental bill of rights important to you? If so, are there any additional provisions which should be included?

A ***Answer***

A REGULAR SUMMARY

A regular state of environment report would include information about the health of our environment and resources. It would allow us to measure changes in the environment and report these in a summary fashion to all Yukoners. It could be a very useful educational tool as well as an alarm system if things are going wrong.

In British Columbia, the Ministry of Forestry reports to the legislature every five years on the state of the forests. The federal government and some provinces have similar commitments on a broad range of environmental indicators.

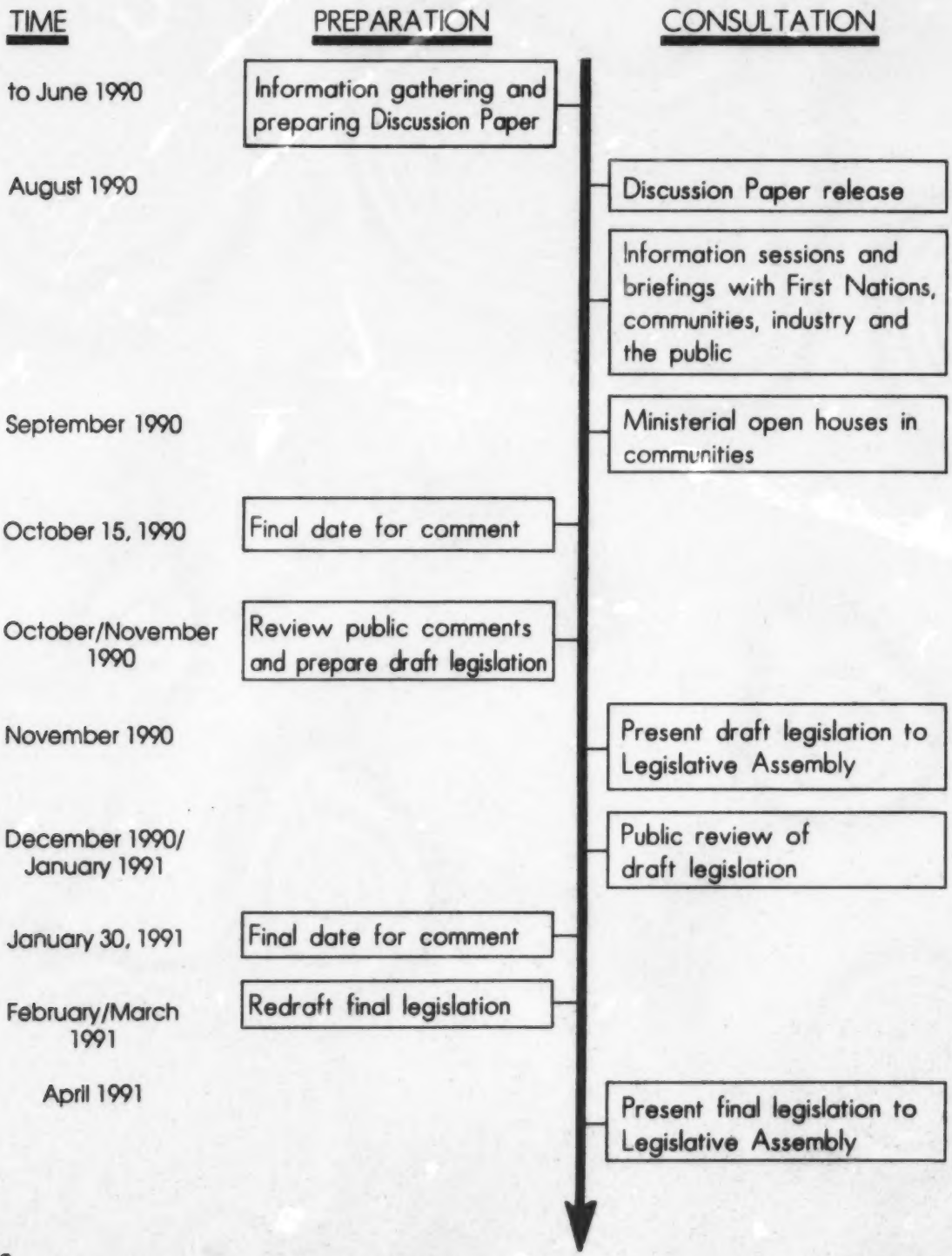
Alberta is proposing to begin state of environment reporting for the first time. In the Yukon, we collect data on water quantity and quality, on climate and weather, and on various aspects of the economy. In the past, studies like the Yukon River Basin Study (1984) served as a type of state of environment report. But we don't have one overall state of environment report that is produced regularly.

Q ***Question***

Do you see any value in requiring state of environment reporting?

A ***Answer***

How will we develop the Yukon Environment Act?



WE'D LIKE TO HEAR FROM YOU

This discussion paper marks the beginning of a public participation process. Now we'd like to hear from you. In September, a series of community visits will gather your views which will then be incorporated into a draft *Environment Act.* Please give your comments to the government representatives at the meetings or send your written comments to the Environmental Protection Coordinator at the address below.

The draft *Environment Act*, which will outline specific legislative proposals, will be distributed for further discussion in December 1990. Following receipt of comments from the second round of consultations at the end of January 1991, the final legislation will be prepared. We plan to table the Yukon *Environment Act* in the Legislative Assembly during the Spring Session of 1991. If however, it is clear that more consultation is required than our schedule allows, the time frame will be revised. We want the best legislation possible.

Your participation in the development of our *Environment Act* will help us to fulfill the goals set out in the Yukon Conservation Strategy and will ensure the integrity of our environment.

FOR MORE INFORMATION PLEASE CONTACT

Environmental Protection Coordinator
Department of Renewable Resources
Yukon Government
P.O. Box 2703
Whitehorse, Yukon Y1A 2C6

Phone (403) 667-5683, or
1-800-661-0408 toll free

Current Legislative Coverage

AIR POLLUTION

Air quality objectives Substances regulated by CEPA	Canadian Environmental Protection Act (CEPA)
Whitehorse wood smoke	Whitehorse By-law
Emissions from new or existing activities not regulated by CEPA, Waste oil burning, Other	No legislation

WATER POLLUTION

Impact on fish	Fisheries Act
Water quality (industrial effluent) Sewage disposal (public)	Federal Northern Inland Waters Act (NIWA) (Water licences)
Sewage disposal (private)	Private Sewage Disposal Regulation, Yukon Public Health Act
Substance regulated by CEPA	CEPA
Beaufort Sea	CEPA, Fisheries Act, Arctic Waters Pollution Prevention Act, Oil & Gas Production & Conservation Act, Inuvialuit Land Claims Settlement Act, other
Ground water protection Effluent discharges from or on private property	No legislation (partially covered by NIWA)

LITTER CONTROL

Along highways	Highways Act
On "premises"	Rubbish Disposal Regulations
Other areas	No legislation

WASTE MANAGEMENT

A. Solid wastes at camp sites	Camp Sanitation Regulations
Other solid waste	No legislation
B. Special waste	No legislation

PESTICIDES

Pesticide Control Act

EVIRONMENTAL EMERGENCIES

Impact on fish	Fisheries Act
Substances regulated by CEPA	Canadian Environmental Protection Act (CEPA)
Transportation on highways	Transportation of Dangerous Goods Act
Water licences	Northern Inland Waters Act
Land use permits	Territorial Lands Act (Crown Land)
Fuel or chemical storage in municipalities or on commissioner's land	No legislation

NOISE CONTROL

Domestic noise	Noise Prevention Act
Other sources roads/highways industry, construction airports etc.	No legislation

RECYCLING

Beverage container deposits waste oil, batteries, tires, other	No legislation

Suggested Regulations Under the Yukon Environment Act